

under the other sections of the bill. I am concerned that the three titles have been joined into a single bill without the respective provisions being synchronized.

By expanding the scope of loans covered by HOEPA, we will further limit liquidity and drastically shrink the availability of mortgage credit. In fact, under current law, the liability and penalties extended to HOEPA loans have made creditors reluctant to make these loans.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GARY G. MILLER of California. I yield to the gentleman from Massachusetts.

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Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

The gentleman from California and the gentleman from North Carolina, who is a prime sponsor of this, have been in conversations.

Mr. GARY G. MILLER of California. That is correct.

Mr. FRANK of Massachusetts. And I believe it is possible to achieve both objectives, that is, flexibility as to mode but the full substantive protection. And so going forward, as this bill moves on and ultimately we get to conference, I do think we can provide flexibility as to method while preserving the full substantive protections. And there will be conversations between the Miller brothers on that subject.

Mr. GARY G. MILLER of California. I thank the chairman. Mr. MILLER and I have discussed this in the last several days, and I know there was not time to deal with this issue effectively prior to it reaching the floor. I have had extended conversations with many Members on your side of the aisle who support the concept I am trying to move forward.

I look forward to working with you before this bill comes back through conference.

Mr. FRANK of Massachusetts. I now yield to another member of the subcommittee who has been very much involved, particularly in the area of manufactured housing, as well as others, the gentleman from Indiana (Mr. DONNELLY).

Mr. DONNELLY. Mr. Chairman, I rise in support of H.R. 3915, the Mortgage Reform and Anti-Predatory Lending Act. My home State of Indiana has been one of the hardest hit by foreclosures. We rank well above the national average with 3 percent of our loans in foreclosure.

Subprime loans, which have affected many of our Nation's families, account for nearly half of our States' foreclosures. Earlier this year, it was reported in various parts of our area, 18 percent of all subprime loans were past due. We know all too well how the subprime fallout is weighing down our economy and spreading to others. We must act now.

I want to thank Chairman FRANK, my colleagues on the Committee on Financial Services, Mr. WATT and Mr. MILLER, for working with consumer groups and industry representatives alike to produce a good bill that will ensure American families have access to responsible and affordable mortgage options while improving the health of the marketplace. I urge my colleagues to vote in support of H.R. 3915.

Mr. BACHUS. Mr. Chairman, may I inquire as to the remaining time.

The CHAIRMAN. Both sides have 8 minutes remaining.

Mr. BACHUS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. ROSKAM) to speak in opposition to the bill.

Mr. ROSKAM. I thank the gentleman for yielding.

Like many others, I very much appreciate the tone and the effort of the chairman and the ranking member to come to terms with a very difficult problem that is facing our country, and that is the subprime mortgage crisis and the ripple effect, the profound ripple effect it is having throughout the economy.

My sense, though, is that while there are some very good elements in the bill, I appreciate the fact that it is prospective, I appreciate the fact that it is not a bailout, and I appreciate the fact that its focus is limited to subprime mortgages and not prime mortgages, there is an element that is of enough concern to me to come to the floor and bring it to the House's attention.

I am not unique in bringing it to the House's attention, but I urge a real sense of caution, and I think we can do slightly better, and that is the ambiguity of some of the phrases and definitions in the bill. The gentleman from Georgia referenced these in his remarks.

But when regulatory language, as this is, has words like "appropriate" without further definition; "ability to repay" without further definition; and "net tangible benefit" without further definition, I think it is a weakness in the bill, and I think it is a fatal flaw in the bill.

My hope is that these ambiguities will be cleaned up. I am not one that says we necessarily need to yield this turf to the regulators. I think we as Members of Congress have that ability and that responsibility to define these terms. Because if we don't, I think what will happen is that capital that is currently available to subprime borrowers will become unavailable to some subprime borrowers.

There is language that creates the purported safe harbor in the bill, but it is a safe harbor that does not end with a period at the end of the sentence, essentially. It is a safe harbor that has a comma at the end and is simply a rebuttable presumption. So safe harbors are mostly safe, but not entirely safe.

I think Americans like to be governed with a light touch and not a heavy hand, and I hope that we can re-

visit this bill when it may come back from the other body.

Mr. FRANK of Massachusetts. Mr. Chairman, I now yield to another member of the committee who has been active on this issue, the gentleman from Connecticut (Mr. MURPHY), for 2 minutes.

Mr. MURPHY of Connecticut. I thank the gentleman for yielding.

I thank Chairman MILLER and Mr. WATT for their leadership in bringing this bill through the committee. I want to draw attention to one provision of the bill and underscore the importance of the provisions here that prohibit steering of borrowers into higher-cost mortgages than they would otherwise qualify for.

This mirrors legislation that I introduced earlier this year, H.R. 3813, the Mortgage Kickback Prevention Act. The bill before us prevents mortgage originators from inappropriately steering consumers into higher-cost loans than they would otherwise qualify for.

This is a commonsense measure, and it is made more reasonable by the restriction to apply this only to subprime loans. To me and my constituents, it is pretty simple. Brokers and mortgage originators shouldn't have an incentive to put borrowers into more expensive loans than they would otherwise qualify for.

Frankly, as we move forward, I think it is important to understand that disclosure doesn't do the entire trick here. Most borrowers have no idea what it means when their broker discloses that they are going to pay a yield-spread premium amidst the mountains of paperwork that you are required to fill out for a residential mortgage. For these borrowers who have the least amount of leverage in the process, we need to have some clear lines. This bill does that.

That is why it makes sense to simply say the brokers and originators cannot inappropriately put borrowers into loans they otherwise would not qualify for. This Congress has responsibility, as we are doing today, to reset the rules.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Connecticut. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. The gentleman has been very tough on this issue, appropriately, and he is right.

Some people can read ambiguity into 2 plus 2, and we will deal with that. We are lawyers. We are into redundancy. So in the colloquy I will be having with the gentleman from North Carolina (Mr. MILLER) we will reaffirm the point that the gentleman from Connecticut is making. I guarantee that by the time this bill comes out of conference, no one will be able to raise any doubt about the prohibition on anybody being compensated for costing the consumer more.

Mr. MURPHY of Connecticut. I thank the gentleman for that. He has been very strong on this from the beginning. This prohibition on steering is